

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to developmental disabilities and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 38, “Developmental Disabilities Basic State Grant,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 225C.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 225C.6 and 42 U.S.C. Chapter 144.

Purpose and Summary

These proposed amendments to Chapter 38 are the result of a general review of administrative rules to make necessary updates and to simplify the content wherever possible. The amendments update references to the federal authorizing legislation, remove prescriptive language that mirrors the federal legislation and replace it with references to the legislation, bring contracting language into conformity with the Iowa Code and Iowa administrative rules, and update the name of the Iowa Developmental Disabilities Council (DD Council).

Fiscal Impact

No additional costs to the regulated community or State of Iowa as a whole are anticipated. DD Council staff has reviewed the changes and agreed that this rule making will not affect the operation or responsibilities of the DD Council. The DD Council’s constituents and the general public are not expected to experience any changes.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s general rule on exceptions to policy at rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 7, 2018. Comments should be directed to:

Harry Rossander
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Department of Human Services
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Des Moines, Iowa 50319-0114
Email: policyanalysis@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **441—Chapter 38**, chapter preamble, as follows:

PREAMBLE

Pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, ~~42 U.S. Code, Section 6000, et seq.~~ 42 U.S.C. Chapter 144, (DD Act) and Iowa Code section 225C.3, the department of human services has been designated as the administering agency to receive the federal assistance to the state developmental disabilities councils from the federal ~~administration on developmental disabilities~~ Administration for Community Living. These funds are used by the ~~governor’s Iowa~~ developmental disabilities council.

The purpose of this chapter is to define and structure the funding of projects by the ~~governor’s Iowa~~ developmental disabilities council (also known as the ~~governor’s Iowa~~ DD council). Projects are designed to influence change in the system of services and supports in Iowa to increase the independence, productivity, and community integration of ~~people~~ individuals with developmental disabilities.

Funding priorities for projects are established by the ~~governor’s Iowa~~ DD council in the state plan.

ITEM 2. Amend rule **441—38.1(225C,217)**, definitions of “Governor’s DD council” and “Projects,” as follows:

“Governor’s Iowa DD council” means the governor’s Iowa developmental disabilities council.

“Projects” means activities described in the Iowa DD council’s five-year plan that are designed to address the priority areas as established in purpose and priorities established by the DD Act through any of the following: to undertake advocacy, capacity-building, and systemic-change activities that contribute to a coordinated, person- and family-centered, and individual- and family-directed comprehensive system of community services, individualized supports, and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families.

1. Activities to increase the capacities and resources of public and private nonprofit entities and others to develop a system for providing specialized services or special adaptations of generic services or other assistance which responds to the needs and capabilities of people with developmental disabilities and their families and to enhance coordination among entities.

~~2.—The conducting of studies and analyses; gathering of information; development of model policies and procedures; and presentation of information, models, findings, conclusions and recommendations to federal, state and local policymakers, in order to enhance opportunities for people with developmental disabilities, including the enhancement of a system for providing or making available specialized services or special adaptations of generic services for people with developmental disabilities and their families.~~

~~3.—The demonstration of new ways to enhance the independence, productivity and integration into the community of people with developmental disabilities, such as model demonstrations which, if successful, will be made generally applicable through sources of funding other than funding under the DD Act, including new ways to enhance specialized services or special adaptations of generic services for people with developmental disabilities and their families.~~

~~4.—Outreach activities for people with developmental disabilities to enable them to obtain assistance in the priority areas established in the state plan, including access to specialized services or special adaptations of generic services for people with developmental disabilities and their families.~~

~~5.—Training for people with developmental disabilities, their family members, and personnel, including professionals, paraprofessionals, students and volunteers on obtaining access to, or on providing, services and other assistance in the area, including specialized services or special adaptations of generic services for people with developmental disabilities and their families.~~

~~6.—Similar activities designed to prevent developmental disabilities from occurring or to expand and enhance the independence, productivity and integration into the community of people with developmental disabilities through the state on a comprehensive basis.~~

ITEM 3. Amend rule 441—38.2(225C,217) as follows:

441—38.2(225C,217) Program eligibility. For any year in which Congress appropriates funds, the governor's Iowa DD council shall, consistent with the state plan and the priorities established under the DD Act, determine projects to fund under the developmental disabilities basic state grant program. Funding priorities will be established by the governor's Iowa DD council in the state plan and will be consistent with the priorities established in the DD Act. (Applications for capital expenditures or capital renovations are not eligible for funding.) The governor's Iowa DD council may award funding through any of the following department-approved processes: for competitive, sole source, or unsolicited proposals in accordance with the provisions of 11—Chapter 117 for the procurement of goods and services of general use.

ITEM 4. Rescind rules 441—38.3(225C,217) to 441—38.8(225C,217).

ITEM 5. Renumber rule 441—38.9(225C,217) as 441—38.3(225C,217).

ITEM 6. Amend renumbered rule 441—38.3(225C,217) as follows:

441—38.3(225C,217) Contracts. The funds for approved projects will be awarded through a contract entered into by the director and the applicant. The work statement of the contract and the budget will be mutually negotiated between the director or designee and the applicant. The contract may cover a period not to exceed 24 months. The contract shall set forth the expectations and terms of compliance between the contractor and the director. The Iowa DD council may award funding through any of the department-approved processes for competitive or noncompetitive procurements in accordance with the provisions of 11—Chapter 117 for the procurement of goods and services of general use and 11—Chapter 118 for purchasing standards for service contracts.

ITEM 7. Rescind rule ~~441—38.11(225C,217)~~.

ITEM 8. Renumber rule ~~441—38.12(225C,217)~~ as ~~441—38.4(225C,217)~~.

ITEM 9. Amend renumbered rule 441—38.4(225C,217) as follows:

441—38.4(225C,217) Conflict of interest policy. All ~~governor's~~ Iowa DD council members and those serving in an advisory capacity to the ~~governor's~~ Iowa DD council as defined in 441—subparagraph 1.7(8) "c"(2) shall not engage in activities that present a conflict of interest.

38.4(1) ~~Governor's~~ Iowa DD council members and those serving in an advisory role to the ~~governor's~~ Iowa DD council are prohibited from applying for any project when they were involved in recommending the project, or designing or developing the request for proposal.

38.4(2) All ~~governor's~~ Iowa DD council members and those serving in an advisory capacity to the ~~governor's~~ Iowa DD council who serve or whose family members serve as officers, directors, partners, consultants, or employees of the applicant being evaluated shall be excluded from preliminary review of proposals, discussing with ~~governor's~~ Iowa DD council members who will be voting, and advising or voting on the evaluation of that applicant and all other applicants submitting proposals in that category.